

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 1:20-CR-183

ADAM DEAN FOX,
BARRY GORDON CROFT, JR.,
KALEB JAMES FRANKS,
DANIEL JOSEPH HARRIS, and
BRANDON MICHAEL-RAY CASERTA,

Hon. Robert J. Jonker
Chief U.S. District Judge

Defendants.

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GOVERNMENT'S MOTION TO EXTEND TIME TO RESPOND

The government requests an additional 30 days to respond to the motions filed by the above-named defendants, and in support states as follows:

1. After granting the defendants' motion to continue the trial, this Court set a deadline of July 12, 2021 for the filing of all motions. (R.161, PageID.823.) The Court has ordered that all motions will be heard at the time of the Final Pretrial Conference, currently scheduled for September 23, 2021. (*Id.*; R.136, PageID.719.)

2. Between Sunday, July 11 and Tuesday, July 13, 2021, the defendants filed a total of twelve substantive motions, plus numerous overlapping motions to join each other's motions. (R.216: Motion for Early Designation of Witnesses and Exhibits; R.219: Motion for Special Jury Instruction Based on *Brandenburg v. Ohio*; R.221: Motion for Special Jury Instruction Based on *Strictissimi Juris* Standard; R.225: Motion to Compel Discovery; R.228: Motion to Allow Submission of Unique Juror Questionnaire; R.230: Motion for Change of Venue; R.232: Motion to Sever Defendant; R.234: Motion to Compel Identification of Exculpatory Evidence; R.238:

Motion to Compel Identification of Statements Offered Under FRE 801(d)(2)(E); R.241: Motion to Exclude Statements; R.245: Motion to Suppress Fruits of Search Warrant; R.248: Motion for Disclosure of Records Related to Confidential Human Sources.) With one exception, the motions are nondispositive.

3. The local rules provide that “unless otherwise ordered, any party opposing a nondispositive motion shall, within fourteen (14) days of service of the motion, file a responsive brief and supporting materials.” L. Crim. R. 47.2(c). The deadline for responding to a dispositive motion is 28 days after service. L. Crim. R. 47.1(c).

4. The Court has broad discretion to extend filing deadlines. “When an act must or may be done within a specified period, the court on its own may extend the time, or for good cause may do so on a party’s motion made ... before the originally prescribed extended time expires.” Fed. R. Crim. P. 45(b)(1). The local rules similarly provide that “the court may in a particular case shorten or enlarge any time, word count, or page limit established by these rules, with or without prior notice or motion.” L. Crim. R. 12.3.

5. The government cannot realistically respond to twelve motions in fourteen calendar days, at least not with well-researched briefs that will assist the Court. An additional 30 days (for a total of 45 days) would give the government approximately 3 days per motion to respond, not counting weekends. The proposed extended deadline of August 26, 2021 (one month before the final pretrial conference, and two months before the scheduled trial date) would allow the parties time to continue preparing for trial, without impacting the Court’s calendar.

WHEREFORE, the government requests a 30-day extension of time to respond to the defendants' motions or until August 26, 2021.

Respectfully submitted,

ANDREW BYERLY BIRGE
United States Attorney

Dated: July 14, 2021

/s/ Nils R. Kessler
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